

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0542-01
Bill No.: HB 90
Subject: Insurance - General; Courts; Civil Procedure
Type: Original
Date: January 9, 2013

Bill Summary: This proposal allows an insurer to intervene in a civil lawsuit in which the insurer may be liable for the costs of defending the suit or a portion of the judgement to determine the extent of the insurer's required coverage.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Insurance Dedicated Fund	Up to \$25,000	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	Up to \$25,000	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 4 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2014	FY 2015	FY 2016
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** estimate that up to 500 insurers would be required to submit amendments to their policies to comply with the proposal. Policy amendments must be submitted to DIFP for review along with a \$50 filing fee. One time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$25,000.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews DIFP will need to request additional staff to handle the increase in workload.

Officials from the **Office of the State Courts Administrator** assume the current proposal would not fiscally impact their agency.

Officials from the **Attorney General's Office** assume that any potential costs arising from this proposal can be absorbed with existing resources.

<u>FISCAL IMPACT - State Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
INSURANCE DEDICATED FUND			
<u>Income - DIFP</u>			
Filing fee required with policy amendments	<u>Up to \$25,000</u>	<u>\$0</u>	<u>\$0</u>
ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND	<u>Up to \$25,000</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2014 (10 Mo.)	FY 2015	FY 2016
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal specifies that an insurer has the right to intervene in a civil action in which it may be contractually obligated to pay the cost of defending a civil lawsuit or a portion of any judgment that may be rendered in the lawsuit. If an insurer intervenes, the insurer must pay the reasonable legal fees and costs necessarily incurred in the coverage portion of the lawsuit by the person seeking coverage under its policy and the court must make a final determination of the extent of the insurer's coverage before proceeding with the merits of the underlying action. The court's determination as to coverage is immediately appealable. The insurer must promptly litigate the coverage portion of the lawsuit and if the court finds that the insurer has failed to do so, the court must dismiss that portion of the lawsuit. Upon a final judgment as to the coverage, the insurer must be dismissed from the lawsuit and its obligations to pay the legal fees and costs will terminate upon the dismissal. This action by the insurer will not constitute a breach or waiver of any provisions of its insurance contract.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions
and Professional Registration
Attorney General's Office
Office of the State Courts Administrator



Ross Strope
Acting Director
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